

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
ALLAN J. CLEMENTS,) CASE NO. 08-21957 JPK
) Chapter 13
Debtor.)

ORDER FOR HEARING REGARDING REPORTS OF SALE

On July 10, 2008, the debtor filed a motion for authority to sell real property located at 9959 Express Drive, Highland, Indiana, and a separate motion for authority to sell property located at 9947 Express Drive, Highland, Indiana. The United States of America, Internal Revenue Service, objected to both of these sales motions by means of objections filed on July 31, 2008. These objections were resolved by the court's approval of agreed orders between the debtor and the Internal Revenue Service, entered on August 20, 2008. On January 5, 2009, the debtor, by counsel, filed a Report of Sale with respect to each of the two properties subject to the separate motions for sale.

First, unfortunately, the court did not enter an order generally approving the sale with respect to either parcel of real estate. The court has no problem with entering an order with respect to each motion *nunc pro tunc*, in that the court had approved both of the sales upon resolution of the objections of the United States. However, these orders must reflect the terms of the resolution with the United States regarding its objections to both of the sales motions. Each of the agreed orders between the debtor and the United States of America provides that "the lien of the Internal Revenue Service shall be paid at the time of closing to the extent of funds available after payment of closing costs and payment of Centier Bank . . ." The report of sale with respect to the property located at 9947 Express Drive, Highland, Indiana discloses that in addition to payments made to Centier Bank and with respect to closing costs, payments were made from the proceeds of sale of that property for delinquent real property taxes payable

to the Lake County Treasurer and with respect to a tax warrant of the State of Indiana. It does not appear to the court that those disbursements were contemplated by the agreed order with the Internal Revenue Service. With respect to sale of the property located at 9959 Express Drive, Highland, Indiana, disbursements were made at the closing to the Lake County Treasurer for delinquent real property taxes, again perhaps not within the contemplation of the agreed order with the United States of America.¹

IT IS ORDERED that a hearing will be held on **March 2, 2009, at 1:00 P.M.** to address whether the disbursement of proceeds stated in the two reports of sale designated above comply with the provisions of the agreed orders entered into between the debtor and the United States of America, and to further address the terms of the *nunc pro tunc* orders to be entered authorizing the sales of both parcels of real estate.

Dated at Hammond, Indiana on January 30, 2009.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee
Attorneys of Record

¹ The court assumes that the agreed orders with the United States of America contemplate the pro ration of real property taxes with respect to both of the sales, as is evidenced by the closing statements attached to each of the separate reports of sale.